52 Wash. 444. Though given only general powers, by necessary implication a city may extend streets across railway tracks, and railroads necessarily may cross streets. *St. Louis & S .F. R. Co.* v. *City of Fayetteville,* 75 Ark. 534; *Little Miami, etc. R. Co.* v. *City of Dayton,* 23 Ohio St. 510; *N. J. Southern R. Co.* v. *Long Branch Com'rs.,* 39 N. J. L. 28. But there is no implied authority to condemn absolutely and take exclusive possession of land already used for a public purpose. *Albany Northern R. Co.* v. *Brownell,* 24 N. Y. 345; *Boston & A. R. Co.* v. *Cambridge,* 166 Mass. 224. Such powers must be conferred by legislative grant. *St. Paul Union Depot Co.* v. *City of St. Paul,* 30 Minn. 359. And to that effect is the decision in the principal case. The court, however, apparently was of the opinion that had the city provided properly for the joint use, the appropriation would not have been inconsistent with the previous public use. *Oregon Short Line* v. *Postal Tel. & C. Co.,* 111 Fed. 842.

EVIDENCE—PRESUMPTIONS AND BURDEN OF PROOF IN CASE OF CORPORATION CHARGED WITH CRIME.—The Northern Pacific Railroad Company, a corporation, was prosecuted under §§ 1741, 1742, Revised Codes of Montana, which made it a criminal offence, punishable by a fine, for any railroad company doing business in Montana to require any employee to work for more than sixteen consecutive hours out of twenty-four. The evidence produced upon the part of the state was entirely circumstantial and by no means convincing. Upon conviction the corporation appealed on the ground that the evidence would not support a conviction, except by marshalling every presumption deducible from the evidence in favor of defendant's guilt. The Supreme Court of Montana reversed the case, holding that a corporation charged with crime occupies the same relative position as a natural person so charged, and that the same presumption of innocence and the same burden of proving the crime beyond a reasonable doubt exist as in the prosecution of a natural person. *State* v. *Northern Pac. Ry. Co.* (1910), — Mont. —, 111 Pac. 141.

The principal case seems to be the first in which the question of the position of a corporation as defendant in a criminal case as compared with that of a natural person similarly situated, has been directly raised and adjudicated. Upon the precise proposition which forms the basis of the court's decision there seems to be a dearth of authority directly in point, the court sustaining itself by citing cases in which the defendant was a natural person, and reasoning by analogy therefrom that a corporation charged with crime occupies the same position as a natural person in regard to the presumption of innocence and the burden of proof. While the decision is undoubtedly sound upon principle and rests upon grounds which apparently have hitherto been taken for granted in prosecutions of corporations, yet it is apparent that some of the considerations which lay at the basis of the common law rule, requiring that every person be presumed innocent until proved guilty, and that the burden of proving the existence of the crime beyond a reasonable doubt should rest upon the state, do not exist, at least to some degree, in cases in which the defendant is a corporation. The rule just stated took its rise from the zealous regard which the common law uniformly

maintained for the life, liberty and reputation of the individual. It was deemed manifestly unjust that a person be deprived of either except upon the clearest proof. But in the case of a corporation, an artificial intangible personality having neither body nor soul, which cannot in any strict sense be said to have a reputation and which can only be mulcted of its property by a fine in a criminal prosecution, it is safe to say that many of the reasons lying at the base of the common law rule as to burden of proof in criminal cases do not exist, and that there is some basis for contending that no greater proof should be required to obtain a judgment against a corporation in a criminal case than in a civil case, since the judgment can only affect the corporation in each case in precisely the same way, namely, by depriving it of its property. The Supreme Court of Maine has expressly held that in an action under a statute criminal in form, but to recover a penalty, the same rules of evidence apply as in civil cases. *State* v. *Grand Trunk R. Co.*, 58 Me. 176. Whether allowing conviction of a corporation on less than proof beyond a reasonable doubt would be considered as depriving a person of equal protection of the laws, *quaere*.

GARNISHMENTS—ON WHAT ACTIONS AVAILABLE—LIQUIDATED CLAIMS.—Plaintiff issued an attachment against a non-resident debtor to recover a sum of money, alleged to be due for services rendered in collecting incomes, making investments, etc. Defendants were summoned as garnishees. *Held,* the claim sued on was unliquidated and therefore could not support a garnishment proceeding. *Blick* v. *Mercantile Trust & Deposit Company of Baltimore* (1910), — Md. —, 77 Atl. 844.

In a leading case it is said "that the measure of damages must be such as the plaintiff can aver by affidavit to be due." *Fisher* v. *Consequa,* 2 Wash. C. C. 382, Fed. Cas. No. 4816; but there must either be a precise sum due or an agreed standard of computation or calculation. *Clark's Executors* v. *Wilson,* 3 Wash. C. C. 560, Fed. Cas. No. 2841; *Fleming* v. *Pringle,* 21 Civ. App. Tex. 225, 51 S. W. 553. Both of the above elements were foreign to the contract in the principal case, therefore a verified statement sufficient to support a proceeding in garnishment was impossible. *Hochstadler* v. *Sam,* 73 Tex. 315, 11 S. W. 408. It would seem that some courts refuse to restrict the remedy by attachment to liquidated damages. *Knox* v. *The Protection Ins. Co.,* 9 Conn. 430; *Lenox* v. *Howland,* 3 Caines (N. Y.) 277, 322.

INSURANCE — CHANGE OF RATES IN MUTUAL BENEFIT ASSOCIATION. — The plaintiff held a certificate in a mutual benefit insurance company issued under the usual condition that insured would comply with all subsequent rules and regulations. He refused to abide by a subsequnt re-rating and raise in the assessment of old members and sued to recover premiums previously paid. *Held,* that he was bound by these new rulings. *Supreme Ruling of Fraternal Mystic Circle* v. *Ericson* (1910), — Tex. Civ. App. —, 131 S. W. 92.

In this class of policies the authorities are in harmony to the effect that the company may make reasonable changes, but the difficulty arises in deter-